

From: Michael Livak
Sent: Wednesday, September 15, 2004 12:10 PM
To: cathy.poncabare
Cc: tom.sheehy@sen.ca.gov
Subject: Squaw Valley SKi Corp CPR public comment
 Dear Ms. Poncabare:

Following, find the presentation I plan to make at the CPR meeting this Friday during public comment. I timed it and it takes exactly 3 minutes- the bold type indicates segments of audio recorded from the Lahontan Board meeting which I will play into the microphone from a portable cassette player that I will bring with me.

I appreciate the opportunity to provide this testimony in written form, and to get it to the commissioners and on the record.

Please contact me with any questions or concerns.

Sincerely,
 Mike Livak

Public Comment:

Hello, my name is Mike Livak. I would like to testify regarding lack of accountability and due process demonstrated by the Lahontan Regional Water Quality Control Board, in order to support the CPR report recommendation to transfer the Regional Boards' duties to an integrated Environmental Protection Department which would report to the governor. I noticed that the first point in chapter 6 in the Performance Review document states "The current framework for environmental regulation lacks accountability." That's true, and the continued existence of these Regional Boards, composed of part-time appointees who answer to no-one, and who sometimes conduct business without any regard for due process, cannot effectively serve the people of California.

For example, I recently attended a public "hearing" conducted by the Lahontan Board regarding referral of the company I work for to the California Attorney General.

Regional Board staff prepared a demonstrably false report supporting the referral. Although staff spent over one year preparing that report, only a portion of it was provided to me less than 10 days before the hearing. Because Regional Board policy is that written materials must be submitted a minimum of 10 days before hearings, Regional Board counsel recommended that the Board decline to accept my written rebuttal to the staff report. Then, Regional Board staff made an hour-long PowerPoint presentation, and one of the Board members openly stated his conclusion before hearing my testimony regarding the numerous inaccuracies of the staff report and presentation (play clip 1).

Clip 1 content- Lahontan Board member states "I mean, all this to me just says lock the place up and shut it down and stop. Don't do it anymore."

Thereafter, I introduced myself to the Board and I was informed that I would have no opportunity to address the Board despite the fact that due process and the agenda itself provided for my rebuttal testimony. Board members apparently wanted to depart the meeting early to catch airplane flights without hearing the evidence: (play clip 8).

Clip 8 content Lahontan Board Chair states: "Um, the problem is that, uh, we're about to lose a

quorum and um, you know, uh... several board members feel that they have enough information with which to decide on the specific issue which is before us, whether or not to refer to the Attorney General”

Only intervention by our state legislator’s field representative allowed me to speak at all in this public hearing (play clip10).

Clip 10 Field Representative states: “All we ask is a fair hearing... after all, you cannot act without any accountability...this is supposed to be a fair hearing, and I hope that you would allow the testimony”

Subsequently, I was permitted to speak for about 10 minutes in response to staff’s hour-long presentation, when I was again interrupted (play clip 14).

Clip 14 content Board Chair states: I’m not trying to rush you, I’m just telling you that –that- you know, I’m really getting the sense that-that this is not affecting what we think. It’s not helping me at all.”

I offer this testimony to clarify accountability problems with the Lahontan Regional Water Quality Control Board, which were in this instance manifested by a total disregard for due process in a public hearing.

Ironically, the CA AG did file a case against the company at Lahontan’s insistence but recently dropped allegations that ANY harm to water quality (the thrust of Lahontan’s jurisdiction) has occurred as a result of the company’s actions.

At the most recent Lahontan Board meeting I attended, different Board members inquired of Board staff on at least three occasions during the first hour “how long is this meeting going to last” or “how long do we have to stay here tomorrow?”

The CA Regional Boards, which are accountable to no one, should be disbanded and their functions should be undertaken by true professionals employed by an integrated Environmental Protection Department as recommended in the California Performance Review document. Thank you.